

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 18, 2004**

REGULAR MEETING

9:00 A.M.

AUGUST 18, 2004

PRESENT:

COMMISSIONERS:	Jim Bagley, Chairman	Richard P. Pearson
	Paul Biane, Vice Chairman	A. R. "Tony" Sedano, Alternate
	Bob Colven	Gerald Smith
	James V. Curatalo, Alternate	Diane Williams
	Neal Hertzmann, Alternate	Clifford Young

STAFF:

Kathleen Rollings-McDonald, Executive Officer
Clark H. Alsop, Legal Counsel
Samuel Martinez, LAFCO Analyst
Debby Chamberlin, Clerk to the Commission

ABSENT:

COMMISSIONERS: **Dennis Hansberger, Alternate**

REGULAR SESSION - CALL TO ORDER - 9:04 A.M.

Chairman Bagley calls the regular session of the Local Agency Formation Commission to order. Commissioner Pearson leads the flag salute.

Chairman Bagley requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

Chairman Bagley says there will be no swearing of a regular Special District member of the Commission this morning. Executive Officer Kathleen Rollings-McDonald reports that the mailed ballot election did not result in a selection, since none of the candidates received the minimum 28 votes. She says that Mr. Smith received 19 votes, Ms. Cox received 17 votes, and Mr. Field received four votes. She says another ballot was mailed out for the run-off election between Mr. Smith and Ms. Cox, with a deadline of September 13 so that the new member can be seated at the September 15 hearing. She says that once a majority threshold of 27 districts voting has been met, the candidate with the most votes will be selected.

(It is noted that Commissioner Curatalo arrives at 9:06 a.m.)

Chairman Bagley calls on Commissioner Sedano for a presentation to Commissioner Hertzmann. Commissioner Sedano presents Commissioner Hertzmann with a framed newspaper article reporting on his serving as the Grand Marshal of the Old Miners Days Parade in the City of Big Bear Lake.

APPROVAL OF MINUTES FOR REGULAR MEETING OF JULY 21, 2004

Chairman Bagley calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Pearson moves approval of the minutes as presented, seconded by Commissioner

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Colven. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane and Young.

CONSENT ITEMS

LAFCO considers the items listed under its consent calendar, which Chairman Bagley states consists of: (1) approval of the Executive Officer's expense report; (2) approval of payments as reconciled for the month of July 2004 and noting cash receipts; and (3) adoption of Resolution No. 2833 approving Human Resources Policies and Procedures. A Travel Claim and Visa Justification for the Executive Officer's expense report, and a staff report for the reconciled payments and adoption of Resolution No. 2833, have been prepared and a copy of each is on file in the LAFCO office and is made a part of the record by its reference herein. Consent calendar items have been advertised as required by law through publication in The Sun, a newspaper of general circulation.

Executive Officer Kathleen Rollings-McDonald states that the Commission has been presented this morning with a draft Resolution No. 2833 to replace the one attached to the staff report, which incorporates changes recommended by Legal Counsel Clark Alsop.

The staff recommendation is that the Commission approve the Executive Officer's expense report and the adoption of Resolution No. 2833, as revised, and continue the approval of reconciled payments for the month of July to the September 15 hearing since the Auditor's office has not yet provided the monthly report regarding financial activities.

Chairman Bagley asks whether there is anyone present wishing to discuss the consent calendar items. There is no one.

Commissioner Colven moves approval of the consent calendar, seconded by Commissioner Pearson. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane and Young.

(It is noted that Commissioner Young arrives at 9:09 a.m.)

DISCUSSION ITEMS

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2961; AND (2) LAFCO 2961 - CITY OF SAN BERNARDINO ANNEXATION NO. 358 - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a proposal to annex approximately 1.2 acres to the City of San Bernardino (hereinafter referred to as "the City"), at the request of the landowner. The annexation area is generally bordered by 48th Street on the north, North E Street (North H Street in the City) on the east, and parcel boundaries on the south and west, within the community commonly referred to as "Arrowhead Suburban Farms". Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments, those individuals requesting mailed notice, and landowners and registered voters pursuant to State law and Commission policy.

LAFCO Analyst Samuel Martinez presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Martinez shows pictures of the annexation area on a powerpoint display. He reports that the parcel proposed for annexation has an existing single-family residence on it; that the proposal was submitted without a specific development project; and that the applicant indicates that upon annexation he will subdivide the parcel into four lots (three new lots to be created in addition to the existing lot with the residence on it). He says the City rezoned its sphere of influence in May, 1991; that the land use designation assigned to this area by the City is RS and that the County's designation is 3mRM; and that the surrounding land uses include single-family residential uses

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and an apartment complex east of the area. Mr. Martinez says the City submitted a Plan for Service and indicated that it can maintain and improve the levels and range of services for this area. He summarizes the services to be provided, as outlined in the staff report, pointing out that the only financial effect to the future residents will be the City's 8% utility users tax. He says the County Assessor's office verified that the area contains 100% landowner consent for annexation and is legally uninhabited and says the City has submitted a letter consenting to a waiver of the protest proceeding as allowed under Government Code Section 56663. He reports that the Commission's Environmental Consultant Tom Dodson & Associates has recommended that this proposal is statutorily exemption from environmental review.

Mr. Martinez says staff recommends approval of this annexation on the basis that the lot with the existing single-family residential unit and the proposed three new lots being created for residential development will benefit from the full range of City services. He says the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) adopt the Statutory Exemption and direct the Clerk to file a Notice of Exemption within five working days; (2) approve LAFCO 2961; (3) waive protest proceedings as permitted by Government Code Section 56663(c) with 100% landowner support and concurrence from the City; and (4) adopt LAFCO Resolution No. 2835 setting forth the Commission's findings and determinations.

Chairman Bagley asks what the acreage is in the Arrowhead Suburban Farms sphere area. Mr. Martinez responds that it is more than 300 acres. Chairman Bagley says that although he does not want to use the "Donut Hole" word, this is one of those areas where it would be nice to be able to annex the entire area. Mr. Martinez reports that no opposition or comments were received as a result of the notices that were mailed out.

Commissioner Young says it was indicated that 100% of the landowners have consented to annexation and he asks in what form they consented. Mr. Martinez says that there is only one landowner in the annexation area; and he says he signed a consent form, a copy of which is attached to the staff report. Commissioner Young says this area is in his District and that, while he does approve of getting rid of "Donut Hole" areas, he wants to be sure that the landowners in the area are aware of this annexation. He asks whether the landowner has participated in any community hearings regarding this, or has talked with the people in the Arrowhead Suburban Farms area.

Executive Officer Kathleen Rollings-McDonald reports that notice was sent to 120 landowners and registered voters within 750 feet surrounding the area and that no responses were received in favor or in opposition.

Chairman Bagley opens the public hearing and asks if the landowner is present.

Darren Edelman, the son of Armand Edelman who is the landowner, says his father resides in the residence on site and communicates with a lot of his neighbors. He says that as indicated by Ms. McDonald, notices were mailed out and no objections were received from any of the neighbors.

Commissioner Young says he is not opposed to this annexation, but needs more information, and he asks whether an action needs to be taken today. Ms. McDonald says this proposal can be continued but says that will postpone Mr. Edelman's processing in the City for one month. She adds that LAFCO's notification is extensive and included all local representatives of community groups, starting with the Notice of Filing, followed by the Notice of Hearing and then the staff report. She reiterates that no comments were received. Commissioner Young asks Ms. McDonald if she is comfortable that everyone in the area affected by this project has been notified. She responds that the notification required by Commission policy was given.

Commissioner Pearson discusses that Commissioner Young brings up a good point, as was seen at last month's hearing related to the Hesperia Freeway Corridor annexation. He says, however, there is no way that staff can say that everyone has been informed. Commissioner Young comments that he understands that not everyone can be notified, but reiterates that he wants to be comfortable that staff went through the process to notify those people that will be concerned about this annexation.

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Casper Waheed discusses that he does not understand the subdivision process and asks various questions. Commissioner Young assures him that the subdivision process occurs all over the County and the State and is not unusual. Commissioner Bagley explains that this is a landowner initiated annexation to the City and that the question is what agency will provide service to the area in the future. Ms. McDonald tells Mr. Waheed he can look through the file on this proposal after the meeting.

Chairman Bagley asks if there is anyone else wishing to speak on this matter. There is no one and he closes the hearing.

Commissioner Williams moves approval of staff recommendation, seconded by Commissioner Pearson. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams, Young. Noes: None. Abstain: None. Absent: Biane.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2926; AND (2) LAFCO 2926 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR EAST VALLEY WATER DISTRICT - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a service review and sphere of influence update for the East Valley Water District (hereinafter referred to as "the EVWD" or "the District"). Notice of this hearing has been advertised as required by law through publication in The Sun and the Highland Community News, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. As outlined in the background information in the staff report, Ms. McDonald discusses that one of the guiding principles in the policies and procedures adopted by the Commission for its sphere of influence program is that the sphere should be based upon a community-by-community approach. She discusses boundaries of the EVWD and the City of Highland as shown on the maps on the powerpoint display. She reports that the EVWD serves in two defined communities--the whole of the City of Highland and portions of the City of San Bernardino, generally east of Waterman Avenue, north of Third street, and its unincorporated sphere areas adjacent to the City of Highland. She says LAFCO staff met with the City of Highland staff and the EVWD staff on two occasions and questioned the relationship between the City of Highland and the EVWD's sphere area along its eastern most edge, which she reports has been a part of the District's sphere since 1974. She reports that this area, which is a rugged foothill area above the City of Highland, is not slated for urban development and is designated for Resource Conservation. Ms. McDonald says LAFCO staff discussed with the EVWD reducing its sphere by approximately 3,000 acres to accommodate the developable lands in this eastern area and to remove the areas designated Resource Conservation. She says they also discussed expanding the District's sphere to include territory of the City of Highland boundary southerly of Third Street, easterly of Alabama. She reports that the EVWD presented to LAFCO staff a request from the governing body of the San Bernardino International Airport, the Inland Valley Development Agency, that the District's sphere be expanded to include its Parcel B-1C for the receipt of water and sewer service for a proposed Jet and Rocket Engine Test Site project. She says staff is recommending affirmation of the balance of the District's sphere. She says no concern was expressed by the City of San Bernardino regarding its sphere territory or boundaries in the EVWD.

Ms. McDonald summarizes the major points of consideration in the response provided by the District addressing the service review survey, as outlined in the staff report. She notes that the EVWD's response was very comprehensive. She summarizes the District's currently authorized active services and functions and its latent powers.

Ms. McDonald states that the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) determine that LAFCO 2926 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five working days; (2) make the findings related to

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a service review required by Government Code Section 56430 and determine that the sphere of influence for the EVWD should be amended as discussed above and outlined in the staff report, and that the balance of the EVWD's sphere should be affirmed as presently configured; and (3) adopt LAFCO Resolution No. 2836 setting forth the Commission's findings and determinations on this issue.

Ms. McDonald says the Commission has been presented this morning with a resolution adopted by the Board of Directors of the EVWD supporting these sphere modifications, as well as a copy of a News Release regarding joint activities the District is participating in, specifically a water rights settlement agreement signed by the EVWD, City of Redlands and the San Bernardino Valley Municipal Water District (hereinafter referred to as "the SBVMWD".)

Commissioner Colven asks whether this is a move by the EVWD to improve service that already exists. Ms. McDonald responds that this relates to the settling of protests made by agencies to an application to the Department of Water Resources filed by the Western Municipal Water District and the SBVMWD to get excess water that will collect behind the Seven Oaks Dam. Commissioner Colven asks whether there has been a settlement as to the apportionment of water behind the Dam. Ms. McDonald says that Bob Martin, General Manager of the EVWD, is present and can answer that question.

Mr. Martin explains that most of the service diversions on the Santa Ana River have historically been made by the Bear Valley Mutual Water Company, which also has subsidiary contracts with other mutual water companies and an obligation to deliver water to them as well. He says when the Dam was built, there were several filings made with the State Water Rights Board because of new water to be created behind the Dam. He says other agencies in the community protested these filings, including the EVWD, which began a process that started over ten years ago. He reports that as the time for the water rights hearing came closer, serious negotiations took place, resulting in this accord being signed. He says this accord is a good one and does not change much the way things have worked for the last 100 years.

Commissioner Sedano commends Mr. Martin for the District's outstanding report. He says the District lives by its mission statement and should keep up the good work. Mr. Martin says that the report was prepared by Cheryl Tubbs of the Lilburn Corporation.

Chairman Bagley thanks Mr. Martin for the very professional service review and says the District is obviously a well-run organization.

Commissioner Hertzmann says he does not understand why they should bother to make the sphere change in the eastern portion of the District and asks what it would hurt to leave it alone. Mr. Martin responds that his Board was noncommittal on that issue, but he says Ms. McDonald was very persistent in suggesting that it would really be helpful if the District would abide by the Commission's policies. He points out that it is a mountainous area and says the Board agreed with the Commission's policies and was willing to remove that area from the District's sphere.

Chairman Bagley opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

(It is noted that Commissioner Biane arrives at 9:40 a.m.)

Chairman Bagley comments that some of the latent powers for some agencies are pretty broad; and he asks if when doing these services reviews, they should look at whether some of the latent powers should continue to exist. Ms. McDonald explains that staff is acknowledging for the Commission what an agency's latent powers are, as authorized in their Principal Act, so that the Commission is aware of the range of activities an agency could perform. She notes that if an agency wants to use one of its latent powers, it would have to submit an application to the Commission to expand its authorized services and powers. Commissioner Bagley says that he does not necessarily want to challenge a district's latent powers and get rid of them, but he says the Commission is doing these service reviews to see what services an agency is providing and what it should be doing in the future. Ms. McDonald says they can

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comment on latent powers that they do not believe should be authorized, but she says it is State law that defines what services an agency can perform.

Commissioner Pearson comments that this may be an issue to discuss at the upcoming CALAFCO Conference to see whether CALAFCO wants to take a position on the status of latent powers and see whether it would be worthwhile to pursue legislation on this issue. He says that with the passage of AB 2838, this is the first time the Commission has taken a detailed look at what services are being provided by entities and says this may be a good time to take a closer look at latent powers. Ms. McDonald notes that at the State level, the Principal Acts of all districts are routinely looked at, with usually one Act reviewed per session.

Commissioner Curatalo asks whether the Commission can consider legislation that would remove a district's latent power in a specific developed area, so that any legislation would only affect that area and not other areas throughout the State. Ms. McDonald explains that the Commission's policies and procedures for special districts include a definition of what services every independent and dependent special district is authorized to provide and that each LAFCO can address this problem for a specific district during a service review, as long as the Commission has special district representation.

Chairman Bagley calls for further questions. There are none.

Commissioner Colven moves approval of staff recommendation, seconded by Commissioner Smith. Commissioner Biane announces that he will abstain from voting because he missed the first part of the hearing. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams, Young. Noes: None. Abstain: Biane. Absent: None.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2927; AND (2) LAFCO 2927 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR CITY OF HIGHLAND - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a service review and sphere of influence update for the City of Highland (hereinafter referred to as "the City"). Notice of this hearing has been advertised as required by law through publication in The Sun and Highland Community News, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald says this is the companion proposal to the East Valley Water District's (hereinafter referred to as "the EVWD") proposal previously heard. She discusses boundaries of the City and EVWD as shown on the maps on the powerpoint display. She reports that after meeting two times with the staffs of the City and the EVWD, it was clear that some minor amendments to the City's sphere were needed to: (1) expand it to the north to include a single parcel owned by the East Highlands Ranch Company; and (2) expand it on the east to include 80 acres of privately-owned lands in the EVWD's boundary and sphere. She reports that the City expressed no problems with these proposed expansions.

Ms. McDonald summarizes the major points of consideration in the response provided by the City addressing the service review survey, as outlined in the staff report. She summarizes the City's currently authorized active services and functions and its latent powers. She reports that none of the adjacent or overlaying agencies have expressed any concerns with the City's sphere as it is presently configured or the proposed expansions.

Ms. McDonald states that the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) determine that LAFCO 2927 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five working days; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the sphere of influence

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for the City of Highland should be amended as discussed above and outlined in the staff report, and that the balance of the City's sphere should be affirmed as presently configured; and (3) adopt LAFCO Resolution No. 2837 setting forth the Commission's findings and determinations on this issue.

(It is noted that Commissioner Young leaves the hearing at 9:50 a.m.)

Commissioner Sedano says that the City's boundaries, as shown on the map, are a real mess. He asks if there is anything LAFCO can do to correct this injustice of how parts of the City of San Bernardino are almost like islands inside the City of Highland. Ms. McDonald responds that the two Cities discuss all the time a possible exchange of territory, but she points out that the problem is that the detaching City must agree to the exchange. She explains that also compounding the problem is that Highland's share of the tax revenue exceeds that of what San Bernardino's share currently is, so in an exchange of territory Highland would receive a lesser share of the revenue than it does in the majority of its City boundaries. She says it will require negotiations on the part of both Cities, but says LAFCO staff will assist in getting information needed to go through the negotiations. Commissioner Sedano says he wants to go on record that he will do whatever he can to help the Cities to come to an agreement to clear up the mess.

Chairman Bagley opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Smith moves approval of staff recommendation, seconded by Commissioner Biane. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Young.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2931; AND (2) LAFCO 2931 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR CITY OF YUCAIPA - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a service review and sphere of influence update for the City of Yucaipa (hereinafter referred to as "the City"). Notice of this hearing has been advertised as required by law through publication in The Sun and the Yucaipa News Mirror, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that as staff began the review of the Yucaipa community and addressing its incorporated City, the Yucaipa Valley Water District (hereinafter referred to as "the YVWD") and County Service Area 63, it had to identify what the communities were, and she says the area includes the communities of Yucaipa and Oak Glen. She discusses the boundaries of the City and YVWD as shown on the maps on the powerpoint display, noting that a portion of the Oak Glen community is included in the YVWD. She reports that when the City of Yucaipa incorporated and its sphere was established, the inclusion of the community of Oak Glen in the City's sphere was considered but she says the community responded, and has repeatedly responded, that it has no interest in being a part of the urbanizing area of the City. She says the Oak Glen issue was discussed with representatives of the City during this service review and sphere update, who indicated that the City has no interest in expanding its sphere and would only respond to a sphere expansion request submitted by the community of Oak Glen.

Ms. McDonald states that the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) determine that LAFCO 2931 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five working days; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the existing sphere of influence for the City of Yucaipa should be affirmed as presently configured; and (3) adopt LAFCO Resolution No. 2838 setting forth the Commission's findings and determinations on this issue.

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Chairman Bagley opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Smith moves approval of staff recommendation, seconded by Commissioner Biane. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Young.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2932; AND (2) LAFCO 2932 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR YUCAIPA VALLEY WATER DISTRICT - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a service review and sphere of influence update for the Yucaipa Valley Water District (hereinafter referred to as "the YVWD" and "the District"). Notice of this hearing has been advertised as required by law through publication in The Sun and the Yucaipa News Mirror, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that the YVWD has service territory in both San Bernardino and Riverside Counties and serves a much larger area within San Bernardino County. She outlines the boundaries of the District as shown on the maps on the powerpoint display. She explains that San Bernardino LAFCO is the principal county for jurisdictional changes but says that sphere determinations are made by Riverside LAFCO for its county territory and that this Commission makes sphere determinations for the YVWD within San Bernardino County. She discusses the proposed amendments to the District's sphere. First, she says a minor change to expand YVWD's sphere is proposed to include the area within the City of Yucaipa and/or its sphere of influence along the Crafton Hills ridgelines too include the area of the Crafton Hills College. She says the City of Redlands currently provides water or sewer services to the College, even though the College is not included within the sphere of any water and sewer provider. She explains this arrangement has been in existence since the construction of the Campus because Redlands was the only provider available. She says the Campus was included within the City of Yucaipa when it incorporated due to the College's association with Yucaipa and the fact that the family donating the land for the Campus was associated with Yucaipa. She notes that no change to the water and sewer service provider will take place with this amendment. Second, she says a minor sphere expansion is proposed to include the City of Yucaipa's sphere area to the north, including the area surrounding the intersection of Bryant Street and Highway 138. Third, she says staff recommends a sphere reduction to exclude parcels which are part of the City of Redlands sphere along the slopes draining toward the Crafton/Mentone communities.

Ms. McDonald summarizes the major points of consideration in the response provided by the YVWD addressing the service review survey, as outlined in the staff report. She summarizes the District's currently authorized active services and functions and its latent powers.

Ms. McDonald discusses that in addressing this service review with the YVWD, staff reviewed the question that the District services within two state water contractors--the San Bernardino Valley Municipal Water District (hereinafter referred to as "the SBVMWD") and the San Geronio Pass Water Agency (hereinafter referred to as "the SGPWA"). She points out that the Commission will recall during the review of the West Valley Water District (hereinafter referred to as "the WVWD") the problems associated with WVWD's extraction of water in SBVMWD's service area and its delivery into the service areas of the Inland Empire Utilities Agency and the Metropolitan Water District, since that is prohibited by the terms of the State contracts. She says that same concern has been identified for the YVWD since that same situation exists between the SBVMWD and SGPWA. Ms. McDonald states that by submission of this report, staff is asking the YVWD to look into the possibility of an agreement, such as the one required in the WVWD's situation, to acknowledge the delivery of water between State water contractors.

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Ms. McDonald states that the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) determine that LAFCO 2932 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five working days; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the sphere of influence of the Yucaipa Valley Water District should be amended as discussed above and outlined in the staff report, and that the balance of the District's sphere should be affirmed as presently configured; and (3) adopt LAFCO Resolution No. 2839 setting forth the Commission's findings and determinations on this issue.

Chairman Bagley opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Smith. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Young.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2933; AND (2) LAFCO 2933 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR BEAUMONT-CHERRY VALLEY WATER DISTRICT -- CONTINUE TO OCTOBER 20, 2004

LAFCO conducts a public hearing to consider a service review and sphere of influence update for the Beaumont-Cherry Valley Water District (hereinafter referred to as "the BCVWD" and "the District"). Notice of this hearing has been advertised as required by law through publication in The Sun and the Yucaipa News Mirror, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that, as outlined in the staff report, staff has contacted this District on many occasions requesting a response to the service review survey and seeking its assistance in this review. She reports that since no response was received from the BCVWD, staff contacted Riverside LAFCO who provided a copy of the District's adopted 2002 Urban Water Management Plan for use in this review. As shown on the maps on the powerpoint display, she outlines the boundaries of the BCVWD, noting that the District's service area is primarily within Riverside County and that the only District service territory in San Bernardino County relates to 5.25 acres along the easterly side of Oak Glen Road. She explains that if the BCVWD proposed annexation of territory within this County, the Riverside LAFCO would conduct those proceedings, as principal county for BCVWD. She adds, however, that this LAFCO would request that Riverside LAFCO comply with San Bernardino LAFCO's annexation policies that the area be included within the San Bernardino Valley Municipal Water District, since it is the designated water wholesaler. She notes that any future jurisdictional change will involve the issue of the transfer of water between State water contractors so an agreement should also be in place between the San Bernardino Valley Municipal Water District and the San Geronio Pass Water Agency regarding the transportation of water between state contractors.

Ms. McDonald says the BCVWD is an irrigation district operating under Irrigation District Law. She summarizes the response to the service review factors, which are outlined in the draft resolution attached in the staff report, noting that the Urban Water Management Report prepared for the District, provided by Riverside LAFCO, was used to address the service review factors. She discusses factor No. 3 -- Government Structure Options -- and says it indicates that Figure 1-1 of the District Urban Water Management Plan provides a map of the BCVWD's boundary and sphere. She says the District's sphere boundary in this County is accurately reflected on that map but says the District's boundary shows vast lands within San Bernardino County a part of the District, with which LAFCO staff disagrees. She reports that when developing the digitized maps of independent special districts, staff researched government records for agencies within this County, prepared and submitted a map to the District asking that it verify

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its sphere and boundary, and asking that if there was a discrepancy, that the District provide documents to support a change. She says it was confirmed with the BCVWD staff that the 5.2 acre area was the only District territory within San Bernardino County. Ms. McDonald summarizes the District's currently authorized active services and functions, as determined by Riverside LAFCO, and its latent powers. As indicated earlier by Chairman Bagley, she points out that one latent power for this type of District is to acquire and operate an airport or aviation school and she says she has no idea why these types of districts have that as an available power.

Ms. McDonald states that the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) determine that LAFCO 2933 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five working days; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the existing sphere of influence for the Beaumont-Cherry Valley Water District should be affirmed as presently configured; and (3) adopt LAFCO Resolution No. 2840 setting forth the Commission's findings and determinations on this issue.

Commissioner Pearson asks what needs to be done to "twist Riverside LAFCO's arm" to either move this small area into the sphere of the Yucaipa Valley Water District (hereinafter referred to as "the YVWD") or for this Commission to give that area to BCVWD. Ms. McDonald responds that throughout the mid 1980's, there were a number of discussions regarding this sphere and she says this is an on-going problem since that area is the major water production area for the BCVWD. However, she says the Commission has the right to make any sphere determination it wishes, based on the factors it reviews. Commissioner Pearson says the information outlined in the first part of the staff report shows an arrogance on the part of the BCVWD that is unacceptable in the public sector. He says the District's lack of interest in working with this Commission shows to him that maybe they should let the District know that if it does not want to work with this Commission, then the Commission would like to have this area placed in the sphere of the YVWD. Ms. McDonald states that if the Commission wishes, it can continue this hearing and staff will send a letter to the BCVWD asking for its participation in this process. She says that absent the BCVWD's participation, the Commission can indicate that it wishes to remove this area from BCVWD's sphere. Commissioner Pearson says he thinks they should do that, noting that the District probably will not respond to staff's letter.

Commissioner Colven says Commissioner Pearson's comments are well taken; and he says that given the fact that this area is expanding and growing, this will not be the last time they come up against something like this. He says this might provide the opportunity to straighten out the jurisdiction in this area. Ms. McDonald comments that in this general area the topography will not allow for any development of a majority of the sphere area because it is at the bottom of a steep canyon where the District has water well productions. She says it is understandable that the District wants control of its water production facilities in this area, but says she wants to be sure this Commission's policies and procedures are adhered to as Riverside LAFCO moves forward with any actions. Commissioner Colven comments that the potential development always exists and says he wants to see an arrangement that clearly outlines jurisdiction.

Commissioner Curatalo says he believes it is very important for other public agencies to cooperate with the Commission when it is trying to do these State-mandated service reviews. However, he says he would not want a continuance if it would have any ill effect on people living in the area. Ms. McDonald indicates that a continuance of this proposal will do no disservice to anyone.

Regarding a lack of response from the BCVWD, Ms. McDonald notes that Riverside LAFCO has received nothing from the District either, other than the Urban Water Management Plan. Chairman Bagley asks whether the State gives the Commission the discretion to allow Riverside LAFCO to do the entire service review for this District. Ms. McDonald responds that the sphere of influence is defined by the County line and she says that Riverside LAFCO cannot do a service review for an area in San Bernardino County. However, she discusses that the two staffs cooperate and says Riverside LAFCO was asked for information related to service reviews along the southerly boundaries for areas that extend into Riverside County, such as the SBVMWD. Chairman Bagley asks whether there is any punitive remedy for a non-

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cooperating agency in the State code mandating these service reviews. Ms. McDonald responds that there is not.

Legal Counsel Clark Alsop states that a remedy, if there is one, is that the District would not be able to annex an area that is not within its sphere. Chairman Bagley says if this item is continued, a letter could be sent to the District indicating that the District has not been heard from; that this Commission is conducting a service review and thinking about changing the District's sphere, which would preclude it from annexing the area in the future; and asking if the District would like to participate in the process.

Chairman Bagley opens the hearing and asks if there is anyone wishing to speaking on this item. There is no one and he closes the hearing.

Commissioner Pearson moves, seconded by Commissioner Williams, to continue this proposal to October 20, 2004, and to direct staff to forward a letter to the BCVWD asking for its participation in this service review, with a discussion of the possibility that its sphere area within San Bernardino County be removed and included within the sphere of the YVWD. Commissioner Pearson asks Commissioner Biane if he thinks this would create any problems from the County Board of Supervisors' standpoint. Commissioner Biane says this will force the issue on the District; and says he supports the motion because the District needs to participate in the process.

Chairman Bagley says he is not interested in arrogantly demanding that the District participate, but he says the Commission is mandated to do these service reviews and the District needs to cooperate. He calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Young.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2934; AND (2) LAFCO 2934 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 63 - APPROVE STAFF RECOMMENDATION TO CONTINUE TO OCTOBER 20, 2004

LAFCO conducts a public hearing to consider a service review and sphere of influence update for County Service Area 63 (hereinafter referred to as "CSA 63"). Notice of this hearing has been advertised as required by law through publication in The Sun and the Yucaipa News Mirror, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that the staff recommendation is that this item be continued to the October 20 hearing. She reports that the map of CSA 63 shows that the whole of the Oak Glen community is not a part of the District. She says that attached to the staff report is a request for a continuance from the Director of the Special Districts Department, on behalf of CSA 63, so that they can work with LAFCO staff to clarify the boundaries and sphere of influence for this District.

Chairman Bagley asks if there is anyone present wishing to speak on this item. There is no one.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Biane. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Young.

REQUEST FOR WAIVER OF FILING FEES SUBMITTED BY INLAND EMPIRE WEST AND EAST VALLEY RESOURCE CONSERVATION DISTRICTS FOR LAFCO 2963 - REORGANIZATION TO INCLUDE CONSOLIDATION OF INLAND EMPIRE WEST RESOURCE CONSERVATION DISTRICT AND EAST VALLEY RESOURCE CONSERVATION DISTRICT - APPROVE STAFF RECOMMENDATION

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LAFCO considers a request submitted by both the Inland Empire West and East Valley Resource Conservation Districts for a waiver of LAFCO filing fees in connection with their proposed consolidation. Notice of this consideration has been advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states the Districts' request is based on the fact that the filing of this consolidation proposal is in response to direction from the Commission during its sphere of influence update and service review for these agencies. She reports that the total of the fees that would apply to this reorganization is \$13,950. She points out that the charges for environmental review, services of the Registrar of Voters, and the display ad are deposits to be applied toward the actual costs for the services. Ms. McDonald says that staff agrees that this proposal is in response to a directive of the Commission; however, she says there are actual costs that must be paid for and that a waiver of fees would require that the other agencies that fund LAFCO absorb the costs. She notes that if the Commission initiated this consolidation, no filing fees could be charged.

Ms. McDonald states that the staff recommendation is that the Commission approve a reduction in filing fees to include the payment of direct costs for legal advertising, notification, map preparation, reproduction and environmental review and require the submission of a deposit of \$1,700.

Chairman Bagley opens the public hearing and notes that David Hansberger, the General Manager of the East Valley Resource Conservation District and Interim Manager of the Inland Empire West Resource Conservation District, is present. He asks Mr. Hansberger if he would like to make any comments.

Mr. Hansberger states that the Districts agree with the staff recommendation.

Chairman Bagley asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Biane compliments Mr. Hansberger for initiating this proposal, stating it is about good government and bringing together two Districts that more effectively and efficiently can provide services as one agency. Commissioner Biane moves approval of staff recommendation, seconded by Commissioner Pearson. Commissioner Pearson comments that this issue was brought up by Chairman Bagley as a part of LAFCO's charter to try to improve the efficiency of government. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Young.

Chairman Bagley asks what will happen with the overall service review of Resource Conservation Districts (hereinafter referred to as "RCDs") that is supposed to be undertaken, if the consolidation of these two Districts takes place. Ms. McDonald responds that the North Desert service reviews will be initiated in October, including a service review of the Mojave Desert Resource Conservation District. She says that as this consolidation is processed, the Commission will need to look at the overall position of RCDs in the County and decide whether there should be one Countywide district or none. Chairman Bagley says that although he is happy to see this consolidation proposal, originally when the service reviews for these Districts were continued, he thought it was so that a Countywide review could be undertaken. Ms. McDonald states that these two Districts responded by filing this consolidation proposal. Chairman Bagley comments that the Commission still needs to have a Countywide service review for RCDs.

PENDING LEGISLATION

Executive Officer Kathleen Rollings-McDonald says she has no written report to present. She reports that SB 2306, which limits the Commission's ability to condition an action on the initiation of an island

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annexation, has not passed out of the House yet and says it is hoped that it will not make it by the August deadline.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald points out that the Status Report in the Commission packets shows that from July 1 to the present, six proposals have been taken in and she says that in a typical year, 16 applications are received. She says two more applications have been received since preparation of this report--a reorganization for the City of Montclair and one for the City of Rancho Cucamonga.

In response to inquiry of Chairman Bagley, Ms. McDonald says the Commission has been presented this morning with a copy of a letter from Eric Davenport indicating that the Bloomington Incorporation Commission is preparing an feasibility study for the incorporation of Bloomington. She reports that she met with Mr. Davenport to discuss the complexities of an incorporation filing and what information is needed to process an incorporation proposal. She says he assured her that he did not need LAFCO's assistance and will be submitting an application soon. She discusses that there is a complicating factor because yesterday, the Board of Supervisors initiated a Request for Proposal to create a redevelopment area for the Bloomington community, which would freeze property tax revenues in the area he proposes to incorporate. She says that would preclude incorporation because there would be no financial support and incorporation would be declared infeasible. She says Mr. Davenport will be advised of this information.

Ms. McDonald says the Commission has been presented with the Procedural Guidelines for the 2004 CALAFCO Elections. She reports that the Commission needs to designate a voting and alternate voting member prior to the Conference, who she says usually are the Chairman and Vice Chairman. She says that both Commissioners Bagley and Biane will be at the Conference and that if the Commission wishes to designate them for voting purposes, she will submit their names to CALAFCO.

Commissioner Williams moves to designate Chairman Bagley as the voting member and Vice Chairman Biane as the alternate voting member for the 2004 CALAFCO elections. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Young.

Ms. McDonald says the Commissioners have been presented with a packet of information regarding the nominees for the CALAFCO Executive Board. Commissioner Williams inquires about the two vacancies for the City member, whether incumbents are running or whether the positions are vacant. Legal Counsel Clark Alsop says one position is vacant, but he is not sure about the other one. He notes that nominations can be made from the floor. Chairman Bagley comments that if Commissioner Williams is interested in running, she should let him know so that she can be nominated from the floor.

Ms. McDonald states that on the September 15 agenda will be the continued hearing related to the City of Hesperia reorganization including annexation of the Freeway Corridor. She reports that she participated in the community meeting that was held, but she says that hearing was not much better than the Commission's hearing. She says the City will be submitting modifications to the proposed boundaries and that staff will send out a new letter to landowners and voters within and surrounding the area identifying the City's proposed modifications. She says that also on the September agenda will be two City of Colton proposals, one annexing one island and the other annexing four islands, service reviews for the Cities of San Bernardino and Redlands and County Service Area 110, adoption of a resolution approving the LAFCO Benefit Plan and Internal Operation Guidelines, approval of an agreement with the County Auditor/Controller-Recorder, and review and consideration of amendments to the Conflict of Interest Code.

Ms. McDonald reports that on the October 20 agenda will be the continued hearing related to the service reviews and sphere of influence updates for County Service Area 63 and the Beaumont-Cherry Valley Water District, an annexation to the City of Upland, and service reviews and sphere of influence updates

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for Central Valley Fire Protection District, County Service Area 38, San Bernardino Valley Water Conservation District and County Service Area SL-1.

Ms. McDonald informs the Commission that she and Chairman Bagley will be attending a bus tour sponsored by the Mojave Desert Resource Conservation District October 7 and 8. She says that since they will be staying outside the State, in Laughlin, they need Commission authorization to attend. Chairman Bagley asks Legal Counsel whether they can act on this matter since it is not on the agenda. Mr. Alsop responds that the Commission must authorize out-of-state travel and this would need to be added as an emergency item.

Commissioner Colven moves, seconded by Commissioner Smith, to find that the need to take an action to authorize Executive Officer Kathleen Rollings-McDonald and Chairman Jim Bagley to stay out-of-state while attending the Mojave Desert Resource Conservation District tour arose subsequent to the agenda being posted, and to authorize the out-of-state travel. Chairman Bagley calls for a voice for on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Young.

COMMISSIONER COMMENTS

Chairman Bagley thanks Commissioner Sedano for the presentation he made to Commissioner Hertzmann.

Commissioner Curatalo asks whether the Commission can charge a district a fee for its service review, especially in a situation such as the one discussed this morning related to the Beaumont-Cherry Valley Water District, when it causes an extraordinary demand on the Commission's budget and time. Legal Counsel Clark Alsop states that raises the interesting issue of whether an application is Commission initiated, versus district initiated, versus property owner initiated. He says the question is, if the Commission is initiating something, such as a service review, even if it is in compliance with State law, how far can the Commission go with it. Ms. McDonald points out that there is a \$500 filing fee deposit for service reviews and she says each agency is required to pay the direct costs, including environmental review, legal advertising, and preparation of a map. She says there has never been a problem with this fee, but she says that since the Beaumont-Cherry Valley Water District does not participate in funding this LAFCO, and would not respond to the survey, her suspicion is that the District would not respond to a bill for payment.

COMMENTS FROM THE PUBLIC

Chairman Bagley calls for comments from the public. Casper Waheed discusses his business.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS
ADJOURNED AT 10:47 A.M.**

ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

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JIM BAGLEY, Chairman